

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

DAVID WILSON,

Plaintiff,

v.

Case No.: 6:13-cv-00725

AMERICAN FIRE PROTECTION GROUP, INC.
d/b/a MUTUAL SPRINKLERS, INCORPORATED,

Defendant.

ORIGINAL COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, DAVID WILSON, by and through his undersigned counsel, and sues the Defendant, AMERICAN FIRE PROTECTION GROUP, INC. D/B/A MUTUAL SPRINKLERS, INCORPORATED, and in support thereof states as follows:

1. Plaintiff brings this action for overtime compensation and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. §216(b).
2. Plaintiff is an individual residing in Wood County, Texas.
3. Defendant, AMERICAN FIRE PROTECTION GROUP, INC., is a corporation formed and existing under the laws of the State of Minnesota and which maintains and operates a business in the State of Texas.
4. Jurisdiction is conferred on this Court by Title 28 U.S.C. §1331 and by Title 29 U.S.C. §216(b). At all times pertinent to this complaint, AMERICAN FIRE PROTECTION GROUP, INC., was an enterprise engaged in interstate commerce. At all times pertinent to this Complaint, Defendant regularly owned and operated businesses engaged in commerce or in the

production of goods for commerce as defined by §3(r) and 3(s) of the Act, 29 U.S.C. §203(r) and 203(s). Additionally, Plaintiff was individually engaged in commerce and his work was essential to Defendant's business.

5. Venue is proper in this district under 28 U.S.C. § 1391.

6. The Plaintiff worked for Defendant from December 1, 2009 through April 11, 2013 as a sprinkler installer.

7. During one or more weeks of Plaintiff's employment with Defendant, Plaintiff worked in excess of forty (40) hours (overtime hours).

8. During one or more weeks of Plaintiff's employment with Defendant wherein Plaintiff worked overtime hours, Defendant failed to pay Plaintiff one and one-half times his regular rate of pay for each overtime hour worked.

9. The acts described in the preceding paragraph violate the Fair Labor Standards Act, which prohibits the denial of overtime compensation for hours worked in excess of forty (40) per workweek. Defendant willfully violated Plaintiff's rights under the FLSA.

10. As a result of Defendant's unlawful conduct, Plaintiff is entitled to actual and compensatory damages, including the amount of unpaid overtime compensation that Defendant failed to pay Plaintiff.

11. Section 216(b) of the FLSA provides that any employer who violates the statute shall be liable for unpaid overtime pay and an additional equal amount as liquidated damages. Because of Defendant's violation of the FLSA, Plaintiff is entitled to an additional amount equal to the amount of unpaid overtime compensation as liquidated damages.

12. Plaintiff also seeks compensation of the out-of-pocket expenses and costs of court he will have incurred in this action. Plaintiff is also entitled to reasonable and necessary attorneys fees pursuant to 29 U.S.C. § 216(b).

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that:

1. The Court assume jurisdiction of this cause and that Defendant be cited to appear;
2. The Court award damages to Plaintiff as specified above;
3. The Court award reasonable and necessary attorneys' and expert fees and costs;
4. The Court award Plaintiff pre-and post-judgment interest at the highest rates allowed.

Plaintiff further prays for any such other relief as the Court may find proper, whether at law or in equity.

JURY TRIAL DEMAND

Plaintiff demands a jury trial on all issues so triable.

Respectfully submitted this 30th day of September, 2013.



CHARLES L. SCALISE

Texas Bar No. 24064621

ATTORNEY IN CHARGE

DANIEL B. ROSS

Texas Bar No. 00789810

1104 San Antonio Street

Austin, Texas 78701

(512) 474-7677 Telephone

(512) 474-5306 Facsimile

Charles@rosslawpc.com

ATTORNEYS FOR PLAINTIFF